IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 804 of 2007.

Date of decision: 6.12.2007.

Prabandh Samiti Sarswati Vidya Ganesh Chowk Mandi … Petitioner

Versus

H.P. Board of School Education & Anr. … Respondents

Coram :

The Hon'ble Mr. Justice Deepak Gupta, Acting Chief Justice.

The Hon'ble Mr. Justice V.K. Ahuja, Judge.

Whether approved for reporting?[1] No.

For the Petitioner: Mr. R.S. Kanwar, Advocate.

For the respondents: Mr. Lovneesh Kanwar, Advocate.

Per Deepak Gupta, A.C.J.:

By means of this writ petition the petitioner has prayed for the following amongst other reliefs:

> "(i) That the present writ petition may kindly be allowed and the impugned Annexures P-8 dt 30-03-07 whereby the case of the present petitioner for renewal of affiliation for the academic session 2007-08 for elementary classes has been rejected may kindly be quashed and set-aside in view of the fact that the petitioner institution is already imparting education upto 8th standard in pursuance to the affiliation granted to this effect by the respondent board vide Annexure P-10 dt 13-10-06 and furthermore in view of the fact that the petitioner has never applied for the upgradation rather has applied only for the renewal of affiliation upto 8th standard in pursuance to Annexure P-10 and the petitioner further prays that the above said action on the part of the respondents be also declared as unconstitutional and ultra-virus to the provision of the Constitution of India.

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[1]Whether reporters of Local Papers may be allowed to see the judgment? Yes.

(ii) The respondent board may further be directed to consider the application of the petitioner submitted for the affiliation well within time and further to reconsider the said application for affiliation for the elementary classes for the academic session 2007-08 in pursuance to the H.P. Board of School Education regulations 1992 on merit."

The case of the petitioner is that it is running a school since 1983. This school was only for classes 1st to 5th and was granted affiliation by the Himachal Pradesh Board of School Education. However, without their being any affiliation for classes 6th to 8th the school admitted students to these classes and provisional permission was granted to it vide letter dated 13.10.2006 for the session 2006-07. No affiliation, provisional or otherwise was granted for the session 2007-08 with which we are concerned. The petitioner applied for the renewal of affiliation vide letter dated 23.12.2006. In fact since there was no affiliation the question of grant of renewal of affiliation does not arise. In any event, the Board of School Education found that the petitioner's school does not fulfil the requisite requirements and the application for the petitioner's school for grant of affiliation for the session 2007-08 for classes 6th to 8th was rejected. Despite this rejection, the petitioner admitted students to classes 6th to 8th. We are unable to understand how the petitioner could have granted the admission to students without first taking affiliation from the Board. This Court in **CWP No. 92 of 2006** titled **Divya Jyoti Educational Society & Anr.** Vs. **Himachal Pradesh Board of School Education**, has clearly laid down that the affiliation for the subsequent academic year must be applied on or before 31st December of the previous year. This is to protect the interest of the students. This case again highlights the necessity and dire need to ensure that affiliation is obtained before the students are admitted to the school. This is another classic example

where the authorities running the school had taken the law into their own hand and granted admissions to students in classes 6th to 8th without any affiliation. We cannot encourage this practice and on this short ground we are of the view that the petition deserves to be rejected.

However, we are of the considered view that the minor children studying in Class 8th cannot be made to suffer for the misdemeanour and misconduct of the authorities like the petitioner. We therefore direct the Board that in case the admission forms of the students of Class 8th of the petitioner's school are sent through some other school or as private students, they shall be favourably considered for grant of Roll Numbers to the examination to be held in March, 2008. We further direct the petitioner not to admit or conduct any classes from 6th to 8th till affiliation in accordance with law is obtained. In case the petitioner admits students without obtaining prior affiliation, its affiliation for classes 1st to 5th will also be liable to be cancelled. Petition disposed of in the aforesaid terms.

In view of the orders passed in the main petition, all the pending applications shall stand disposed of.

Copy **dasti**.

(Deepak Gupta),
Acting Chief Justice.

(V.K. Ahuja),
Judge

December 6, 2007
(BSS)